G. R. S. IX-5]

Previous references. 1872

~~1911~~

(Courts)

File No. 2

Serial Nos. 1-7

Later references.

Courts 3 of 1873.

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1 to 7

~~M.~~ Part B for March 1814

SUBJECT.

Adjudication of Revenue Suits by Civil Courts

Indexed

Surgeon Nagpur Museum

W D 88—GPB—50,000—24-7-18

No. 320.

Memorandum

Letter No. 445/122 dated 12th December 1872 from the Superintendent of the Nagar Division.

I beg leave to recommend that the Superintendent may be informed that he should be guided by section 16 of the Civil Procedure Code as regards the entertainment of Regular Revenue Suits. Miscellaneous petitions may as directed in para 22 of the Revenue Code, be received by Archay.

2. Para 28 of the Revenue Code specially declares that as regards details in conducting the investigation of cases, the procedure laid down in the Civil rules for

Assistants

Amildars, should as far as it is applicable be adopted. But these rules having been superseded by the introduction of the Civil Procedure code, the directions contained in the latter may safely be adapted for general guidance.

3. The provision made in para 32 of the Revenue code as regards the determination of costs by Revenue Courts to the effect that the award should be in accordance with the "Civil rules", and the dirst of its paras 7 and 8, show that so far as the course of procedure is concerned there should be no differences.

4 As remarked by the Superintendent, that rule as the course laid down in the Civil Procedure code is adopted

adopted as regards the entertainment of revenue suits and service of process the rules lately passed regarding the latter subject cannot strictly be enforced.

Yours truly
9/1/73

I answer in three months
& a letter in reply will
be hoped to keep
[illegible]

15 Dec

15:1:j.

A.° 320

7

Memorandum

To Messrs
with letter from Kazan
Encl.s No 445/112 of 12 Dec.r

14/1/78 J.P.

Messrs
Indaffaires
15.1.78. 89.

of the Revenue Courts
under the Law: Pro:
Code might be trans-
ed to the Civil Courts
to sit de bene, but as
the bill, a large
portion of them could
without interference
to their general
business, when dealt
with such business
exclusively on the
days

The Revenue Statutes
generally, since not
known as any large num-
ber of Revenue suits
involve litigation before
the Revenue Courts and
Sec: 34 of the Revenue Pro:
Code gives Courts ample
power to distribute ap-
peals to such cases as

a practice here
Yorkshire London
We might
have
up in a Schedule
Statement the
days of Court
how employed
by those Courts
which it might
be possible to
dismiss devoted
to Revenue Work
Courts & transfer
to Civil Courts
exclusively, when
the time for
such a transfer
appeared to
have arrived, &
I think he stated
if this is done

Peter

11/3/74

Section Courts
File No 1-1-72
Serial No

From The Sub[t] of Nuggur
To The Sub[t] & the Chief Cons of Nuggur
Dated 12th December 1872. No. 122
Despatched 12 December
Received 16 Dec
Enclosures No. one
General No. 145 } 1872
Rev No. 122 }

Forwards copy of the Shemoga Sapl[r] No 61 and reports that the orders of the Chief Cons. may be obtained whether it is his intention that the Civil rules regarding the presentation of appeals should be strictly followed in the Rev Side also -

Section Courts
File No 2-8-1872
Serial No

To Dupton.
16-12-72

Reg[d] 16-12-72 Issued 20/12/72

No 445
Revd 122

Superintendent's Office
Dyshimoga the 12 Decr 72

To

The Secretary to the
Chief Commissioner of Mysore.

Sir,

In forwarding herewith copies of the Shimoga Dy. Superintendent's letter No 611 dated the 2nd instant I have the honor to request that the orders of the Chief Commissioner may be obtained whether it is his intention that the Civil Rules regarding the presentation of appeals, should be strictly followed in the Revenue side also. Until this is done, the Process Rules published in the Mysore Gazette noted in the margin + 10th August 72 cannot be strictly brought into force, while on the other hand, a strict adherence to the same will occasion much inconvenience and hardship to the Revenue suitors.

I have the honor to be
Sir,
Your most obedient servt

No 611.

Deputy Superintendent's Office

To

The Superintendent
of the Nagar Division

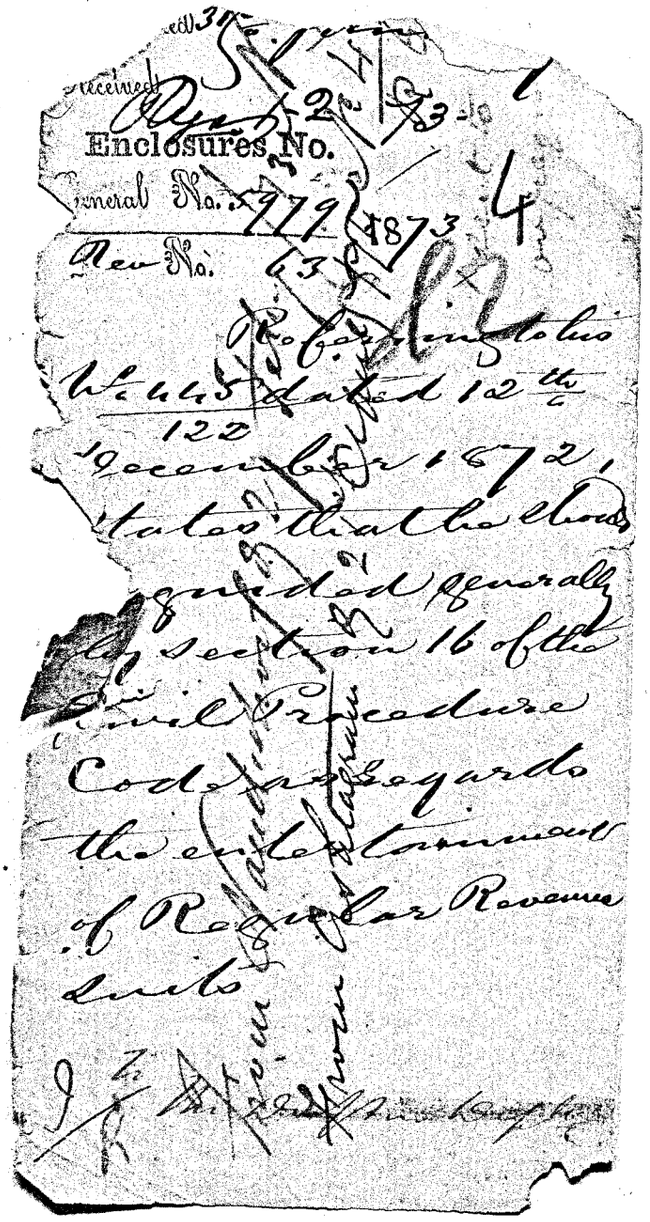
Sir

With reference to the notification
of the Chief Commissioner published in the
Mysore Gazette directing the enforce-
ment of the Rules for the service of Revenue
Processes from the 1st of October last, I have
the honor to state that under the existing
practice, Revenue applications are kept
are not returned and unless the appel-
lant appears and pays process fees no
action can be taken in the matter. I there-
fore beg you will obtain the Chief Commis-
sioner's sanction to the Rules for the presentation
of appeals in the Civil department being
extended to the Revenue department.

I have the honor to be Sir
(sd) A. J. Bruce
Dy. Superintendent
Shimoga Div.

True Copy

A. Anderson


Received
Enclosures No.
General No. 779 1873
New No.

~~No. 5979~~
Rev 63

Mysore Chief Commr's Office.
Camp Santaweery 27th Jany 73.

To

The Commr of Coorg

Office
File No
Nagar division
Serial No

Sir,

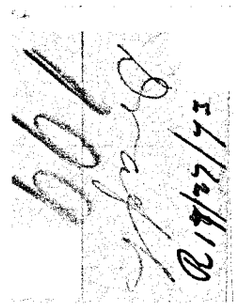
With reference to your letter No. 445/122 9/12th December 1872, ~~requesting~~ Enquiring ~~as to~~ whether the Civil rules regarding the presentation of Appeals should also be strictly followed in Revenue Cases, I am directed by the Chief Commr to state that you should generally be guided by Section 16 of the Civil Procedure Code as regards the entertainment of Regular Revenue suits. ~~Miscellaneous petitions may as~~ directed in para 22 of the Revenue Code be received by Amchay.

2. Para 28 of the Revenue Code specially declares that as regards details in conducting the investigation of cases, the ~~procedure~~ course laid down in the Civil rules for Amildars should, as far as it is applicable be followed. But these rules having been superseded by the introduction of the Civil Procedure Code, the directions contained in the latter may safely be adopted for general guidance.

3 The provision made in para 32 of the Revenue Code as regards the determination of costs by

Revenue

Revenue Courts to the effect that
the award should be in accordance
with the "Civil rules" and the purport of
~~[illegible]~~ paras 7 and 8 show
that so far as the ~~course of~~ proce--
is concerned there should be no
difference between a revenue and
a regular Civil suit
4 As remarked in your letter
under reply, unless the course laid
down in the Civil procedure code
is adopted as regards the entertain-
ment of revenue suits and
service of process, the rules lately
passed on the latter subject
cannot strictly be enforced.-



26/1/73

I have &c
89
Offg Secretary's

Copy to the Commrs of Nundidroog
and Astagram &c for information.-

No. 5980 ✓
dt. 1257
No. 5981 ✓
dt. 1252

JP

Section XVI of the Civil Procedure Code
Act VIII of 1859

Section 16 "All applications to any Civil Court, and all appearances of parties in any Civil Court, except when otherwise especially provided by this Act, shall be made by the party in person, or by his recognized agent, or by a pleader duly appointed to act on his behalf."

8 Encls
2-72
3

1
R43

8 Encls
For approval
or orders
11/3/73

9

Revenue- Pt. 218.

From The Canada Steamship Lines Ltd.
To The Secretary to the Chief Commr.
Dated 24th Feb. 1879.
Despatched 3 March 1879.
Received the 5th March 1879.

Enclosures No.
General No. 3
No. 218
18 7 2 / 7 3

With reference to Docket No 6980 / 1251 of 29th Ultimo forwarding copy for letter addressed to the Commr. Inspn Division Solicitr for the Chief Commr's Consideration Certain suggestions with regard to the filing of Revenue entries

To Solicitor with papers
Enclosed

4. 3. 73

may not be
opinion of the
Commissioners
of the Inspection
be invited on the
proposals of Coll
Deane made
in their letter to Treasury
Department relative
Revenue work in the
Montreal Custom Houses
for reasons assigned
by them in para 2-

MR
11/3/73

Ted
Secretary
Chief Commissioner
Customs

Dep'd 4-3-73

12. 3. 73

I enquired how
the Land lies
here of Spain
but some hes=
itation &
then told me the
Enquiry Rules
is desirable.
Col Rawson
suggestions to
be referred to
Spain & the
other Consuls.
D Ha

forward to my Hall.
No other Ltr for all
Secretaries of Legation.
12. 3. 73
H. Pell

R. No 218

Commissioner's Office
Bangalore the 2nd Feb 1875.

To

No 43

The Secretary to the
Chief Commissioner
of Mysore.

Sir,

With reference to your
Docket No. 3-980/1251 of 27th Ultimo
forwarding for my information,
Copy of a letter addressed
to the Commissioner of the Nagar
Division, I have the honor to
submit the following sug-
-gestions for the Chief Commissio-
-ner's Consideration.

2. Under section 16 of the
Civil Procedure Code, Pleader
can for the future be employed
in Revenue as well as

Civil

Civil Cases, & as the procedure
& the Stamp penalty are the
same, I see no object in
retaining any longer in the
Revenue Courts any suits
involving Claims to Freehold,
Rent-Claims, Rights in Connection
with the Land, or any other Class
of suits which involve Civil
Rights, & would therefore
be open for the very favorable
consideration of Colonel Maule
that the actions which the Revenue
Courts are to take Cognizance
of hereafter, should be limited
to three Heads of V. viz

I. Claims to Village Offices.—

II Boundary disputes in which
Government Rights are concerned

III The right-relative, proportional
or absolute, to water from
Government Irrigation Works

3. His Majesty's Government have thought it desirable that the more correct course now that Revenue Cases are to be heard in Open Court in the same manner as Civil Cases, and also because the penalties and procedure and all such cases beyond the pale of the summary jurisdiction which was formerly thought desirable in all Revenue matters

4. I have received the three Steadings about which I wrote, because I consider it inexpedient, to have Government rights brought almost daily within the scope of Civil actions

5. All accounts on our Border where the Ryotwar system also exists, the above arrangement

Arrangement by Lafayette
Ecole adoptée.

Pour le Commissaire
du
Jeune Mr. Edt Saint-

Commissaire
Municipal

14

From The Commr. Ashton Dn.

To Secretary to Chief Commissioner,

General Department.

Dated. 8th April /73

Despatched.

Received. 9 Apl 73

Courts

File No 277

Enclosures No.

Serial No 4

5

General No. 11

Rev. No. 3.

From Circular No. 7133/1263 of 18 March/73

Expresses opinion on the question of adjudication of Revenue suits by Civil Courts.

To Daftar with references.

9-4-73

Await replies from other officers

28-4-73

Ashraf and Bowes Office

1873/74.

To,

The Secretary to the
Chief Commissioner of
Mysore.

Dated Mysore 8th April 73.

Sir

Section C. & B
File No 1 & 7
Serial No 84

With reference to your Circular
Docket No 7133/63 dated 18th ultimo
forwarding for my opinion copy
of a letter from the Commissioner
Mundidroog Division on the ad
visability of transferring some
Revenue suits to the Civil Courts,
I have the honor to bring to the
notice of the Chief Commissioner
the following circumstances (1) That
under the Circular of 1864/65 issued
by the late Chief Commissioner termed
the Revenue Procedure", the Regular

Revenue

Revenue Cases consist of the following 4 branches. —

1. — Cases for proprietory rights;
2d. those of sub proprietory rights;
3d. Miraasi Cases & 4th disputed claims — The first or proprietory rights are again made into two divisions, the one consisting of original titles to Circar lands, and jungles (Coffee excepted). 2nd Inam Villages, lands, and charitable endowments; and the other consisting of transfers by sale, gift, or endowment, by mortgage, by inheritance, or division and lastly by exchange or surrender. —

3. — The second main division namely the sub proprietory rights consist of cases for rent, evaction, ouster and claims to share

Appeals 8 2

against Shaikmidars. —

(4.) The third Division i.e. Miraasi Cases is composed of Potail, Shanbogue and Barabalooti or other Village service. —

(5.) And the 4th is about disputed claims which consist of boundaries & rights of way and secondly irrigation rights. —

(6.) Regarding the Cases coming under the first two main Sub-divisions, it is laid down in the Circulars that if the Causes of action had arisen within two years that the Revenue Courts should take cognizance of them and decide, and if after, the parties should resort to a Civil Court. The reasons assigned for this, are that this Country is an agricultural

one,

one, that much cost and delay are incurred in having them decided on the Civil side and that much embarrassment is often met with in the execution of Civil decrees. Since the time of framing these rules, a good deal of improvement has been brought about in the disposal of Civil suits and the cases are far more speedily enquired into and determined than before. Since the Court Fees act has been introduced into the Province, the cost of filing the suits namely the Stamps for plaints, processes &c. are almost the same, and the procedure followed being the also the same in both the Courts. I do not see the advantage gained by

Civil

of opinion therefore that these cases may safely be transferred to Civil Courts

(7) As regards Mirasi cases, I am of opinion that in order to prevent the misappropriation of emoluments annexed by the State to Hereditary Village and Shet offices in the Revenue and Police Departments and to maintain the due efficiency of those offices, it would be necessary to declare that no claim to such offices or to any of the emoluments annexed thereto shall be cognizable by the ordinary Courts of Civil judicature. All such claims shall be adjudicable exclusively by the officers of Government in the Revenue Department

8.- As regards disputed claims I must differ a little from the opinion

suppressed

expressed by the Commissioner of Nandidroog Division. They consist of claims to boundaries rights of way and irrigation rights. In my opinion as these affect the Government interests and more speedy decisions in cases like this are required in order to prevent any loss either to Govt. or to ryots than could generally be had in the Civil Side & as the lands for the most part in this country have not been as yet perminently settled, I am of opinion that disputes relating to Boundaries of lands, or Villages, whether between private persons only, or Government and private persons, as also the right of way and irrigation disputes which are

also frequently attended with in-
jurious consequences in cases of
delay, should be made exclusively
adjudicable by Revenue Courts.—

I have the honor to be
Sir,
Your most obedient Servant,

Commissioner
Northern Division

R 60

From Commissioner Muzaffarnagar

To Secretary to Chief Commissioner,

General Department.

Dated. 23rd

Despatched. 27th May

Received. 30th 6958 63

Section Courts

File No. 2-TC

Enclosures No. nil

General No. 64 1873-74

Rev No. 20,

Submits the report called for in his Cir. No. 2133 of 18th March last, regarding Revenue Suits

Vide Circular No: 31 dated 31st

Genl No 64
Rev 20 1873-74

Nagpur Dn Commrs Office
Camp Chichpur floor
23rd May 1873

To

The Secretary to the
Chief Commissioner of Nagpore

Sir,

In reply to your circular No 7133 R. 63 d/18th March last I have the honor to submit the following remarks.

In the year 1864 a set of rules were circulated for the procedure of the Revn Courts. In these a table was given dividing the Revenue work into 4 general divisions I Regular Revn Cases - under this division there were 4 heads called Proprietary rights, Sub proprietary rights, Mirassi cases & Disputed Claims - The first of these heads was again subdivided into original Titles & Transfers, and under these two sub heads together with the last 3 major heads were shown the nature of the cases which were intended to be entered under the several major & sub heads & were meant to include all the various descriptions of cases which were to be considered Regular Revenue Cases - Whether the subdivisions here laid down is good or bad

and suited to the wants of the
country may be a question both
right or wrong the object of its
introduction was decidedly a step
in the right direction viz: to in=
augurate a Code or rules which
tended to regulate the working of
the Revn Courts in the Province into
one system in fact to bring order
out of disorder. The desire too no
doubt was to keep the simple ryots
of the Province from the intricacies of
the law Courts & the consequent
trouble & expense engendered thereby
and to obtain for them a more or
speedy though somewhat more
summary Justice. The Revenue
Procedure Code of Mysore having
I believe been introduced under
these circumstances it seems to me
the first question for consideratio

is have not verified at the time
for a departure from the principles
on which the Rules were based
& introduced. In my humble
opinion the march of civilization
has not advanced with such
rapid strides at least into this
part of the country as to require
any innovation or departure from
the system at present followed.
In my remarks I shall adhere
to the classifications laid down
in the Revd Proc: Code of Mysore
under Division I Regular Revd
Cases.

Under the head Proprietary
rights subhead orgl Titles are
given the following classes of
Cases.

1 Sircar lands & jungles, Coffee
exempted.
2 Inam Villages & lands.

3. Charitable endowments.

The first of these includes all claims set up for lands which are not included under the next sub head of Transfers which include those made by any of the following means.

1 By sale, gift or endowment

2. By Mortgage.

3 By Inheritance or Division.

4. By exchange or surrender; but I presume this head of Sirkar lands &c. was primarily intended to refer to the supposed Proprietary Right of the Mulnaad Wargdars to the lands held by them. But however this may be all cases which would come under the Class — "Sirkar lands & Jungles, Coffee excepted" I should recommend being still considered purely Revenue Cases as the settlement of such disputes

disputes necessitates a constant
reference to the Revr accounts and
the bearing of such claims is
far better understood by the Amils
who are on the spot and know
the ins & outs of them from their
local knowledge - Whereas if
brought into a Civil Court much
time would be lost and spent
in going into minor details in
the case all of which if not
already known to the Revr
Officer can be easily gained for
himself by personal inspection
& a little local enquiry. Besides
there is nothing in such cases
which can involve the slightest
Judicial enquiry & the term orig.
Title I would respectfully submit
is somewhat of a misnomer as
the orig. Title any Ryot of a

ryotwari district can claim is that which he possesses from the Govt. & the copies of these original Titles are kept in the Govt. records the enquiry is merely a reference to the accounts. Puttadar Javabdar is an old saying & one well understood in the old Nujjur Dn. and had reference particularly to the claims set up by Inaamdaar Ryots for Warg lands and meant that the Puttadar would be recognized as rightful holder and he only looked to for the recovery of the dues on the land until duly ousted therefrom by the decree of a Civil Court. Claims to Warg & Sirkar lands might still be treated in the same manner and considered Revn. suits to be settled by the Revn. Officers in the first instance leaving it to the Ryots to show their

Title

Title to the Civil Court which however could never be a Proprietary one for the reason and would come already given, under one of the first 3 classes named under the sub head of Transfers, their sole title being the right of occupancy alone.

The second class of cases coming under the sub head of Orig. Titles is Inam village & land. These have already been excluded from the Revn side.

The 3rd Class is Charitable endowments. These are exclusively Revn cases & must be kept under Revn management.

The 2d. sub head under Proprietary Rights is Transfers. The first 3 classes under this head may with considerable

reason

reason properly form the subject
of Civil suits but at the same
time I think as they were formerly
ruled to be Revt cases there could
be no harm in directing these suits
shd not be instituted in Civil
Courts without the sanction of
Revt authorities viz: Dy Commrs.
I am led to make this proviso
for the following reasons. In almost
all cases in which land is in-
volved the Revt records will have
in some one way or other to be referred
to and a reference to these record.
may often clear up the whole
case or at least show that the
litigation was one which a Revt
Court was competent to decide
For instance take the 1st & 2d
Classes Sale, gift, endowment
or Mortgage. A claims land
from B. as having been sold
given

given, endorsed or mortgaged to him. The first thing to be seen is whether or not the land was B's to sell, endow, give or mort=-gage. The Revr. Registrar shd. determine this at once. then as for the matter of the enquiry into sale, gift &c= it will mainly rest on documentary evidence and usually does not require much depth of Judl. acumen to decide on the validity or otherwise of. However a slight enquiry would soon settle this point and the Revl= Court could then decide the parties should prefer their suit in a Civil Court or a summary decision could be given in favor of one side or other for Revl= purposes and if disputed from the litigants could be referred to the Civil Courts

Courts. Besides if decided in a Revr. Court the change in the Registers can be made at once whereas changes created by Civil decrees are often tardy. Then with regard to the 3d. Class in=heritance or division this though involving often careful judicial investigation may be stopped at once by the order of the Revr. Court declaring that neither A. nor B. have any right to litigate in respect to the land in question, first, because neither have any right to or in the land in so far that it has been always the self acquired pro=perty of C, & thus the case can be summarily disposed of. The decisions of the Courts might in some instances be too summary but this could be rectified in appeal and power could be given

ground for Appellate Courts to
direct the case be tried in a
Civil Court, 2d, the land in
dispute may be so small in
extent so as to be indivisible,
for instance, suppose 8 brothers
were to claim a division of property
in 2 acres of land such a
minute division would be at
once declared impossible and
a glance at the Registers would
decide the case. As for exchange
& surrender this is purely a
Revr. matter and must be
decided entirely by the entries
in Revr. Registers and has
therefore no connection with Civil
suits.

Sub Proprietary Rights are
generally too suits which a
Revr. Court is so far better
fitted

entitled to settle their [illegible]
that I would deprecate these suits
being wholly barred from the Revue
Courts they should be summarily
settled by the Revue Courts as it
will be but very seldom any nice
point of law is likely to be raised
in their decision.

Next Mirassi cases are
clearly Revue cases, pure & simple
and disputed claims are also better
settled on the Revue side owing to a
personal inspection of the disputed
boundary &c rendering the settlement of
such a case far more easy & satis=
factory than to do so on the plans
& maps prepared by the parties or
even the Talook authorities.

In conclusion I beg to
briefly epitomise of the classes
coming under original titles the 2d
has

has been directed by the Govt of India to be determined on the Civil side, and the 3d is exclusively triable by Revl Courts only whereas the 1st class should be continued to be decided by Revl Courts only for these reasons (a) the constant reference involved to Revl Registers & Returns. (b) local knowledge adds facilities to their right adjustment which cannot be had by the Civil Court but is freely possessed or easily attained by the Revl Court (c) there is nothing in suits of this nature involving a judl enquiry their settlement being mostly dependent on Revl acctg the term orgl titles being somewhat of a misnomer. 2d class transfers. Of those the last

on

or 4th Class is purely a Revenue question to be decided by the Revn Regrs, returns & reports and must be settled by the Revenue Courts. The first 3 classes are questions for the decision of the Civil Courts and might be given over for disposal entirely by those Courts but it is suggested not even those cases should be entertained in Civil Courts till sanction has been given by the Revn Courts. The reasons given for this condition will, it is hoped, prove beneficial to Suitors and save the Civil Courts much unnecessary and frivolous litigation but should they not meet with approval, I would suggest that it be left optional with the parties to sue for their claims in such cases

if I recollect right
cases in either Court as was ruled
by Mr. Bowring and that should
the Revr. Court find in the course
of the enquiry into the case that
a regular judl. investigation in-
-volving intricate cases of law
is likely to arise power might
be given to the Revr. Court to
refer the parties to the Civil side
and to transfer the case from
the Revr. Court to the Civil with
all the records of enquiry gone
into - This power should be
exercised by the Dy. Commissr.
only -

In sub proprietary rights
parties might be left to select
their Court, Revr. or Civil, or it
might be regulated that cases
of sub proprietary rights the
cause

cause of action in which & over
2 years be triable by ~~Civil~~ Courts
and all under by the Revn. Courts.

Lastly I may remark respectfully it is I think somewhat doubtful if the legal lore of some of our Courts of Justice (Civil Courts) is above par and whether so far as Judicial knowledge is concerned some of the Revn. officers may not be as learned as their brothers on the bench.

While then the Civil Courts are it may be said in a state of transition & but little better than the Revn. Courts in matters of law. for the officers if both come from the same stock I would question the advisability of our thrusting headlong suits upon the Civil Courts which their

training

training & knowledge render them in no way better fitted to try & dispose of than they would be in Revr Courts and this merely with the view of copying what is done outside and beyond the province—

I have the honor to be
Sir,
Your Most Obedt Servt

H Merrill
Ch Commissr

I
R60

I
R68

Revenue 40
1873

From The Commissioner
Rawalpindi Division.

To

Secretary to Chief Commissioner,
General Department.

Dated 5th September 1873.

Despatched "

Received "

Regd "

Enclosures No. 1

General No.
No. 97

Submits list of the Revenue Special Appeal Cases disposed of in July & August 1873 in the Rawalpindi Division Court's Court. in reference to the transfer of Rev. regular cases to the Civil Courts.—

To Secretary.
9.9.73

Yours faithfully

In Punjab No 5918 24/11/73.

Commissioner's Office.
Bangalore 6th September 1873.

R. 11

From The Secretary to the Chief Commr of Mysore

To

The Secretary to the
Chief Comr. of Mysore

Station
File No
Serial No 46

Sir,

With reference to my letter No. 218 of 27th February 1873, I have the honor to append a list of the Revenue Special Appeal Cases disposed of by me in July and August, and I think Col. Meade will concur with me in opinion when he sees this list that such suits instead of being allowed as at present to form enormously voluminous records and pass through three, and sometimes four Courts might with great relief to the Revenue Officers & immense advantage to the Public Service be transferred to the Civil Courts for summary disposal.

2. It does not appear to me that any fundamental change is necessary. All that seems requisite (if it is decided to transfer these cases to the Civil Courts) is, that the Chief Commissioner should direct that the Revenue Procedure Code, (tentatively introduced by the late Chief Commissioner) should hereafter

hereafter apply only to boundary, irrigation, village office, mera[illegible] rights and other such disputes, and that all cases in which the rights or interests of Govt. are not concerned should be sent to the Civil Courts.

3. This is the Procedure all around our border and the people know and understand it ~~it~~ thoroughly; and are well aware that it is only in Mysore that they are allowed to bring disputes between individuals into the Revenue Courts.

4. I append in the body of this letter a statement shewing the work of my Court in Regular Cases during the past two months, and I think it will be admitted that there is ample work of real importance without obliging me to wade through voluminous records on the subject of a dispute about the produce of a tamarind tree or a field, the value of which rarely reaches Rupees 10/.

Statement of Judicial and Revenue Regular cases disposed of in July and August 1873.

Mass

Classes of Cases.	Pending on 30th June 1873	Filed in July and August.	Total	Disposed of.	Balance on 31st Aug. 1873.	Remarks
Session Cases	10	21	31	31	"	
Crim. Appeals	"	5	5	5	"	
Original Civil Suits	1	"	1	"	1	Partly heard.
Civil Appeals	9	12	21	16	5	3 heard. Judgment given 3rd Sept. further
Original Misc: Cases.	5	1	6	5	1	
Civil Execu: Cases	2	"	2	2	"	
High Court Commissions	3	1	4	2	2	adjourned owing to illness of parties.
	30	40	70	61	9	
Revenue Spl. Appeals	18	3	21	19	2	
Total	48	43	91	80	11	

5. Should the Chief Commissioner however consider it undesirable to take cases between individuals regarding produce &c away from the Revenue officers, I would propose as an alternative arrangement that the Amildars should be directed to dispose of all such cases summarily as in the Civil Courts up to 50 Rupees, that appeals should only lie for claims between 50 and 200 and special appeals only in cases of more than Rs: 200/- in value.

6. As the Provincial Revenue Code was introduced by the late Chief Commissioner of his own authority, I fancy Col. Meade can at once order this modification without a reference, and the suggestions are moreover in strict

strict conformity with the spirit of the Government letter of July 1873 No 1241 on the subject of Appellate jurisdiction.

I have the honor to be
Sir,
Your most obt Servant.

Commissioner.

List of Revenue Special appeal Cases disposed of in July and August 1873.

No	Value			Subject	Remarks.
1	6	"	"	Assessment	
2	6	8	"	Share of Produce	
3	2	5	"	Assessment	
4	15	10	8	do:	
5	14	8	9	do:	
6	9	8	5	do:	
7	19	10	4	Share of Produce	
8	28	12	"	Produce	
9	1	5	2	Assessment	
10	10	"	"	Produce	
11	10	"	"	Produce	
12	16	12	11	Produce	
13	1	"	"	Produce	
14	43	"	"	Share in land	
15	34	3	6	Mohunturpa	
16	50	11	4½	Assessment	
17	6	8	2	do:	
18	4	14	"	Produce	
19	4	"	"	do:	

The Abstracts of many of these Cases filled 10 & 12 closely written Pages of Foolscap

From the Commissioner, Nundydroog Division, To the Officiating Secretary to the Chief Commissioner of Mysore, General Department, Rev. No. 218, dated Bangalore, 27th February 1873.

With reference to your docket No. 5980—1251 of 27th ultimo, forwarding for my information, copy of a letter addressed to the Commissioner of the Nagar Division, I have the honor to submit the following suggestions for the Chief Commissioner's consideration.

2. Under Section 16 of the Civil Procedure Code, Pleaders can for the future be employed in Revenue as well as Civil cases, and as the procedure and the stamp penalty are the same, I see no object in retaining any longer in the Revenue Courts, any suits involving claims to produce, rent claims, rights in connection with the land, or any other class of suits which involve civil rights, and I would therefore suggest for the very favorable consideration of Colonel Meade, that the actions which the Revenue Courts are to take cognizance of hereafter, should be limited to three headings, *viz* :—

I. Claims to village offices.
II. Boundary disputes in which Government rights are concerned.
III. The right,—relative, proportioned, or absolute,—to water from Government irrigation works.

3. I may here remark that this has struck me as the more correct course, now that Revenue cases are to be heard in open Court in the same manner as Civil cases, and also because the penalties and procedure put all such cases beyond the pale of the summary practice which was formerly thought so desirable in all Revenue matters.

4. I have reserved the three headings above noted, because I consider it inexpedient to have Government rights brought almost daily within the scope of Civil actions.

5. All around our border where the ryotwar system also exists, the above arrangement has long since been adopted.

From the Officiating Secretary to the Chief Commissioner of Mysore, To the Commissioners of the Ashtagram and Nagar Divisions, No. 7133—Rev. 63, dated Bangalore, 18th March 1873.

Has the honor to forward copy of a letter No. 218 of the 27th February last, received from the Commissioner of the Nundydroog Division, and to request opinion on the suggestions therein made by Colonel Pearse with regard to Revenue suits.

From the Officiating Commissioner, Nagar Division, To the Officiating Secretary to the Chief Commissioner of Mysore, General Department, General No. 64—Rev. 20, dated Camp Chikmagalur, 23rd May 1873.

In reply to your Circular No. 7133—Rev. 63, dated 18th March last, I have the honor to submit the following remarks.

In the year 1864 a set of rules were circulated for the procedure of the Revenue Courts. In these a table was given, dividing the revenue work into four general divisions. I. Regular Revenue cases. Under this division, there were 4 heads called proprietary rights, sub-proprietary rights, mirasi cases and disputed claims. The first of these heads was again sub-divided into original titles and transfers, and under these two sub-heads, together with the last 3 major heads, were shewn the nature of the cases which were intended to be entered under the several major and sub-heads, and were meant to include all the various descriptions of cases which were to be considered Regular Revenue cases. Whether the codification here laid down is good or not and suited to the wants of the country may be a question, but right or wrong, the object of its introduction was decidedly a step in the right direction, *viz*., to inaugurate a Code or Rules which tended to regulate the working of the Revenue Courts in the Province into one system, in fact, to bring order out of disorder. The desire too no doubt was to keep the simple ryots of the Province from the intricacies of the law courts, and the consequent trouble and expense engendered thereby, and to obtain for them a more speedy though somewhat more summary justice. The Revenue Procedure Code of Mysore having, I believe, been introduced under these circumstances, it seems to me the first question for consideration is, have we arrived at the time for a departure from the principles on which the rules were based and introduced. In my humble opinion the march of civilization has not advanced with such rapid strides at least into this part of the country as to require any innovation or departure from the system at present followed. In my remarks I shall adhere to the classifications laid down in the Revenue Procedure Code of Mysore under division I, Regular Revenue cases.

4b

Proceedings of the Chief Commissioner of Mysore, Department of Agriculture, Revenue and Commerce, 21st March 1874.

Under the head proprietary rights, sub-head original titles, are given the following classes of cases :—

1. Sarkar lands and jungles, coffee excepted.
2. Inam villages and lands.
3. Charitable endowments.

The first of these includes all claims set up for lands which are not included under the next sub-head of transfers which include those made by any of the following means.

1. By sale, gift or endowment
2. By mortgage.
3. By inheritance or division.
4. By exchange or surrender.

But I presume this head of sark[illegible] proprietary right of the Malnad wargdars to the lands held by them. [illegible] cases which would come under the class "Sarkar lands and jungles, coffee excepted" I should recommend being still considered purely Revenue cases, as the settlement of such disputes necessitates a constant reference to the Revenue accounts and the bearing of such claims is far better understood by the Amils who are on the spot and know the ins and outs of them from their local knowledge. Whereas if brought into a Civil Court much time would be lost and spent in going into minor details in the case, all of which, if not already known to the Revenue Officer, can be easily gained for himself by personal inspection and a little local enquiry. Besides there is nothing in such cases which can involve the slightest judicial enquiry, and the term original title, I would respectfully submit, is somewhat of a misnomer, as the original title any ryot of a ryotwari district can claim is that which he possesses from the Government, and as the copies of these original titles are kept in the Government records, the enquiry is merely a reference to the accounts. Pattadar javabdar is an old saying,—and one well understood in the old Nagar Division, and had reference particularly to the claims set up by Malnad ryots for warg lands, and meant, that the pattadar would be recognized as rightful holder and he only looked to for the recovery of the dues on the land until duly ousted therefrom by the decree of a Civil Court. Claims to warg and sarkar lands might still be treated in the same manner and considered Revenue suits to be settled by the Revenue Officers in the first instance, leaving it to the ryots to shew their title to the Civil Court which however could never be a proprietary one for the reason already given, and would come under one of the first 3 classes named under the sub-head of transfers, their sole title being the right of occupancy alone.

The second class of cases coming under the sub-head of original titles is inam village and land. These have already been excluded from the Revenue side.

The 3rd class is charitable endowments. These are exclusively Revenue cases and must be kept under Revenue management.

The 2nd sub-head under proprietary rights is transfers. The first 3 classes under this head may with considerable reason properly form the subject of Civil suits, but at the same time I think, as they were formerly ruled to be Revenue cases, there could be no harm in directing these suits should not be instituted in Civil Courts without the sanction of Revenue authorities, *viz.*, Deputy Commissioner. I am led to make this proviso for the following reasons. In almost all cases in which land is involved, the Revenue records will have in some one way or other to be referred to, and a reference to these records may often clear up the whole case, or at least shew that the litigation was one which a Revenue Court was competent to decide. For instance take the 1st and 2nd classes, sale, gift, endowment or mortgage. A claims land from B as having been sold, given, endowed or mortgaged to him. The first thing to be seen is whether or not the land was B's to sell, endow, give or mortgage. The Revenue Registers should determine this at once ; then as for the matter of the enquiry into sale, gift, &c., it will mainly rest on documentary evidence, and usually does not require much depth of judicial acumen to decide on the validity or otherwise of. However a slight enquiry would soon settle this point, and the Revenue Court could then decide the parties should prefer their suit in a Civil Court, or a summary decision could be given in favor of one side or other for revenue purposes, and if dissented from, the litigants could be referred to the Civil Courts. Besides if decided in a Revenue Court the change in the registers can be made at once, whereas changes created by Civil decrees are often tardy. Then with regard to the 3rd class, inheritance or division, this, though involving often careful judicial investigation, may be stopped at once by the order of the Revenue Court declaring that neither A nor B have any right to litigate in respect to the land in question, first, because neither have any right to or in the land in so far that it has been always the self-acquired property of C., and thus the case can be summarily disposed of. The decisions of the Courts might in some instances be too summary, but this could be rectified in appeal, and power could be given to Appellate Courts to direct the case be tried in a Civil Court ; 2nd, the land in dispute may be so small in extent so as to be indivisible, for instanc[illegible] 2 brothers were to claim a division of property in

2 acres of land, such a minute division would be at once declared impossible and a glance at the registers would decide the case. As for exchange and surrender this is purely a Revenue matter, and must be decided entirely by the entries in Revenue Registers, and has therefore no connection with Civil suits.

Sub-proprietary rights are generally too suits which a Revenue Court is so far better fitted to settle than a Civil Court, that I would deprecate these suits being wholly barred from the Revenue Courts; they should be summarily settled by the Revenue Courts as it will be but very seldom any nice point of law is likely to be raised in their decision.

Next, mirasi cases are clearly Revenue cases, pure and simple and disputed claims are also better settled on the Revenue side owing to a personal inspection of the disputed boundary, &c., rendering the settlement of such a case far more easy and satisfactory than to do so on the plans and maps prepared by the parties or even the taluk authorities.

In conclusion, I beg to briefly epitomise. Of the classes coming under original titles, the 2nd has been directed by the Government of India to be determined on the Civil side, and the 3rd is exclusively triable by Revenue Courts only; whereas the 1st class should be continued to be decided by Revenue Courts only for these reasons (*a*) the constant reference involved to Revenue Registers and returns; (*b*) local knowledge adds facilities to their right adjustment which cannot be had by the Civil Court, but is freely possessed or easily attained by the Revenue Court; (*c*) there is nothing in suits of this nature involving a judicial enquiry, their settlement being mostly dependent on Revenue accounts, the term original titles being somewhat of a misnomer. 2nd class—transfers. Of these the last or 4th class is purely a Revenue question to be decided by the Revenue Registers, returns and reports, and must be settled by the Revenue Courts. The first three classes are questions for the decision of the Civil Courts and might be given over for disposal entirely by those Courts, but it is suggested not even these cases should be entertained in Civil Courts till sanction has been given by the Revenue Courts. The reasons given for this condition will, it is hoped, prove beneficial to suitors and save the Civil Courts much unnecessary and frivolous litigation; but should they not meet with approval, I would suggest that it be left optional with the parties to prefer their claims in such cases in either Court, as, if I recollect right, was ruled by Mr. Bowring, and that should the Revenue Court find in the course of the enquiry into the case that a regular judicial investigation involving intricate cases of law is likely to arise, power might be given to the Revenue Court to refer the parties to the Civil side and to transfer the case from the Revenue Court to the Civil with all the records of enquiry gone into. This power should be exercised by the Deputy Commissioner only.

In sub-proprietary rights parties might be left to select their Court, Revenue or Civil, or it might be regulated that cases of sub-proprietary rights, the cause of action in which is over 2 years, be triable by Civil Courts, and all under by the Revenue Courts.

Lastly, I may remark respectfully it is I think somewhat doubtful if the legal lore of some of our Courts of Justice (Civil Courts) is above par, and whether so far as judicial knowledge is concerned some of the Revenue Officers may not be as learned as their brothers on the Bench. While then the Civil Courts are, it may be said, in a state of transition and but little better than the Revenue Courts in matters of law, for, the officers if both come from the same stock, I would question the advisability of our thrusting head-long suits upon the Civil Courts which their training and knowledge render them in no way better fitted to try and dispose of than they would be in Revenue Courts, and this merely with the view of copying what is done outside and beyond the Province.

From the Officiating Commissioner, Ashtagram Division, To the Offg. Secretary to the Chief Commissioner of Mysore, Genl. Dept., No. 11—R. 3. dated Mysore, 8th April 1873.

With reference to your Circular Docket No. 7133—63, dated 18th ultimo, forwarding for my opinion copy of a letter from the Commissioner, Nundydroog Division, on the advisability of transferring some Revenue suits to the Civil Courts, I have the honor to bring to the notice of the Chief Commissioner the following circumstances. (1) That under the Circular of 1864—65, issued by the late Chief Commissioner, termed "the Revenue Procedure," the Regular Revenue cases consist of the following 4 branches.

2. Cases for proprietary rights; 2nd those of sub-proprietary rights; 3rd mirasi cases; and 4th, disputed claims. The first or proprietary rights are again made into two divisions, the one consisting of original titles to sarkar lands and jungles (Coffee excepted); 2nd, inam villages, lands, and charitable endowments; and the other consisting of transfer by sale, gift, or endowment, by mortgage, by inheritance, or division, and lastly by exchange or surrender.

3. The second main division, namely the sub-proprietary rights, consists of suits for rent, exaction, ouster, and claims to share in profits and other claims by or against Shikmidars.

4. The third division, *i. e.* mirasi cases, is composed of Patel, Shanbhog, and Barabaloti, or other village service.

5. And the 4th is about disputed claims which consist of boundaries and rights of way, and secondly irrigation rights.

6. Regarding the cases coming under the first two main sub-divisions, it is laid down in the Circular that if the causes of action had arisen within two years that the Revenue Courts should take cognizance of them and decide, and if after, the parties should resort to a Civil Court. The reasons assigned for this are, that this country is an agricultural one, that much cost and delay are incurred in having them decided on the Civil side, and that much embarrassment is often met with in the execution of Civil decrees. Since the time of framing these rules, a good deal of improvement has been brought about in the disposal of Civil suits, and the cases are far more speedily enquired into and determined than before. Since the Court Fees' Act has been introduced into the Province, the cost of filing the suits, namely, the stamps for plaints, processes, &c., are almost the same, and the procedure followed being also the same in both the Courts, I do not see the advantage gained by going to the Revenue Courts. I am of opinion therefore that these cases may safely be transferred to Civil Courts.

7. As regards mirasi cases I am of opinion that, in order to prevent the misappropriation of emoluments annexed by the State to hereditary village and other offices in the Revenue and Police Departments, and to maintain the due efficiency of those offices, it would be necessary to declare that no claim to such offices or to any of the emoluments annexed thereto shall be cognizable by the ordinary Courts of Civil Judicature. All such claims shall be adjudicable exclusively by the Officers of Government in the Revenue Department.

8. As regards disputed claims I must differ a little from the opinion expressed by the Commissioner of the Nundydroog Division. They consist of claims to boundaries, rights of way and irrigation rights. In my opinion, as these affect the Government interests, and more speedy decisions in cases like this are required in order to prevent any loss either to Government or to ryots than could generally be had in the Civil side, and as the lands for the most part in this country have not been as yet permanently settled, I am of opinion that disputes relating to boundaries of lands or villages whether between private persons only, or Government and private persons, as also the right of way and irrigation disputes which are also frequently attended with injurious consequences in cases of delay, should be made exclusively adjudicable by Revenue Courts.

From the Offg. Commissioner, Nundydroog Division, To the Offg. Secretary to the Chief Commissioner of Mysore, Genl. Dept., Rev. No. 91, dated Bangalore, 6th September 1873.

With reference to my letter No. 218 of 27th February 1873, I have the honor to append a list of the Revenue special appeal cases disposed of by me in July and August, and I think Colonel Meade will concur with me in opinion when he sees this list that such suits, instead of being allowed as at present to form enormously voluminous records and pass through three, and sometimes four, Courts, might, with great relief to the Revenue Officers, and immense advantage to the public service, be transferred to the Civil Courts for summary disposal.

2. It does not appear to me that any fundamental change is necessary. All that seems requisite (if it is decided to transfer these cases to the Civil Courts) is, that the Chief Commissioner should direct that the Revenue Procedure Code, (tentatively introduced by the late Chief Commissioner) should hereafter apply only to boundary, irrigation, village office, mirasi rights and other such disputes, and that all cases in which the rights or interests of Government are not concerned should be sent to the Civil Courts.

3. This is the procedure all around our border, and the people know and understand it thoroughly, and are well aware that it is only in Mysore that they are allowed to bring disputes between individuals into the Revenue Courts

4. I append in the body of this letter a statement shewing the work of my Court in regular cases during the past two months, and I think it will be admitted that there is ample work of real importance without obliging me to wade through voluminous records on the subject of a dispute about the produce of a tamarind tree or a field, the value of which rarely reaches rupees ten

Proceedings of the Chief Commissioner of Mysore Department of Agriculture, Revenue and Commerce, 21st March 1874.

Statement of Judicial and Revenue Regular Cases disposed of in July and August 1873.

Class of Cases.	Pending on 30th June 1873.	Filed in July and August.	Total.	Disposed of.	Balance on 31st August 1873.	Remarks.
Session Cases	10	21	31	31	...	
Criminal Appeals	...	5	5	5	...	
Original Civil Suits	1	...	1	...	1	Partly heard.
Civil Appeals	9	12	21	16	5	3 heard. Judgment given 3rd September.
Original Miscellaneous Cases	5	1	6	5	1	
Civil Execution Cases	2	...	2	2	...	
High Court Commissions	3	1	4	2	2	Adjourned owing to illness of parties.
	30	40	70	61	9	
Revenue Special Appeals	18	3	21	19	2	
Total	48	43	91	80	11	

5. Should the Chief Commissioner however consider it undesirable to take cases between individuals regarding produce, &c., away from the Revenue Officers, I would propose as an alternative arrangement that the Amildars should be directed to dispose of all such cases summarily as in the Civil Courts up to 50 Rupees, that appeals should only lie for claims between Rs. 50 and 200, and special appeals only in cases of more than Rs. 200 in value.

6. As the Provincial Revenue Code was introduced by the late Chief Commissioner of his own authority, I fancy Colonel Meade can at once order this modification without a reference, and the suggestions are, moreover, in strict conformity with the spirit of the Government letter of July 1873, No. 1241, on the subject of appellate jurisdiction.

List of Revenue Special Appeal Cases disposed of in July and August 1873.

No.	Value.			Subject.	Remarks.
1	6	0	0	Assessment	
2	6	8	0	Share of Produce	
3	2	5	0	Assessment	
4	15	10	8	Do	
5	14	8	9	Do	
6	9	8	5	Do	
7	19	10	4	Share of Produce	
8	28	12	0	Produce	
9	1	5	2	Assessment	
10	10	0	0	Produce	The abstracts of many of these cases filled 10 and 12 closely written pages of foolscap.
11	10	0	0	Produce	
12	16	12	11	Produce	
13	1	0	0	Produce	
14	43	0	0	Share in Land	
15	34	3	6	Mohatarfa	
16	50	11	4½	Assessment	
17	6	8	2	Do	
18	4	14	0	Produce	
19	4	0	0	Do	

Section ...
File No ...
No. 8[illegible]

No. 6958—Rev. 63, dated Bangalore, 21st March 1874.

Order thereon.—The foregoing papers discuss certain suggestions made by Colonel Pearse with a view to the transfer to Civil tribunals of certain classes of cases at present cognizable by the Revenue Courts.

2. The measure is one that requires very cautious and considerate treatment. Some of the classes of cases referred to might no doubt be safely transferred as proposed; but the same remark would not apply to a large proportion of the other cases at present reserved to the Revenue Courts under the Revenue Procedure Code. It will, therefore, need the exercise of much discernment in determining where the jurisdiction of the Civil tribunals should begin and that of the Revenue Courts end.

5 10

3. But the Chief Commissioner is of opinion that no alterations should be made in the existing arrangements until the new judicial arrangements are completed throughout the Province and are clearly shewn to be working well.

4. As regards the complaint made by Colonel Pearse regarding unimportant Revenue suits which come up before him in appeal engrossing too much of his time, it is observed that the returns which have been furnished to this Office, from time to time, have not shewn any large number of Revenue suits under litigation before the Revenue Courts. Even had it been otherwise, the remedy lay in the hands of the Court, for Section 34 of the Revenue Procedure Code gives Commissioners of Divisions ample discretionary power to restrict appeals to such cases only as appear to demand a further hearing.

H. W. WELLESLEY,
Offg. Secretary.

To—The Commissioners of Divisions.

3 J / R 47

1874.

GOVERNMENT OF MYSORE.

REVENUE.

CIRCULAR.

To

THE COMMISSIONERS OF DIVISIONS.

Section
File No
Serial No 847

Dated March 21st.

Despatched

Received

No. 6958.
R. 63.

Correspondence regarding the transfer to Civil Tribunals of certain classes of cases at present cognizable by the Revenue Courts.—Passing orders on the above.